

Amendment No. 1 to HB1690

Halford  
Signature of Sponsor

**AMEND Senate Bill No. 1767**

**House Bill No. 1690\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 43, Chapter 27, is amended by adding the following as a new part:

**43-27-201.**

The purpose of this part is to prohibit the sale or distribution of products containing a hemp-derived cannabinoid to, or purchase of products containing a hemp-derived cannabinoid on behalf of, persons under twenty-one (21) years of age.

**43-27-202.**

As used in this part, unless the context otherwise requires:

(1) "Person" means an individual, firm, fiduciary, partnership, corporation, trust, or association; and

(2) "Proof of age" means a driver license or other generally accepted means of identification that describes the person as twenty-one (21) years of age or older, contains a photograph or other likeness of the person, and appears on its face to be valid; except in the case of distribution by mail, the distributor shall obtain a statement from the addressee that the addressee is twenty-one (21) years of age or older.

**43-27-203.**

(a) It is unlawful for a person to sell or distribute products containing a hemp-derived cannabinoid to another person who has not attained twenty-one (21) years of

age or to purchase a product containing a hemp-derived cannabinoid on behalf of a person under twenty-one (21) years of age.

(b) It is unlawful for a person to persuade, entice, send, or assist a person who has not attained twenty-one (21) years of age to purchase, acquire, receive, or attempt to purchase a product containing a hemp-derived cannabinoid. This section and § 43-27-204 do not preclude law enforcement efforts involving:

(1) The use of a minor if the minor's parent or legal guardian has consented to this action; or

(2) The use of a person under twenty-one (21) years of age who is not a minor if the individual has consented to this action.

(c) A person shall not distribute samples of products containing a hemp-derived cannabinoid in or on a public street, sidewalk, or park.

(d)

(1) A person engaged in the sale or distribution of products containing a hemp-derived cannabinoid shall demand proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that the prospective purchaser or recipient may be under thirty (30) years of age.

(2) In the case of distribution by mail, the distributor of products containing a hemp-derived cannabinoid shall:

(A) Obtain from the addressee an affirmative statement that the person is twenty-one (21) years of age or older; and

(B) Inform the recipient that the person is strictly prohibited from distributing a product containing a hemp-derived cannabinoid, as defined by this chapter, to a person under twenty-one (21) years of age.

**43-27-204.**

(a) It is unlawful for a person who has not attained twenty-one (21) years of age to possess a product containing a hemp-derived cannabinoid, to purchase or accept receipt of a product containing a hemp-derived cannabinoid, or to present or offer to a person purported proof of age that is false, fraudulent, or not actually that person's own for the purpose of purchasing or receiving a product containing a hemp-derived cannabinoid.

(b) A person who violates this section may be issued a citation by a law enforcement officer who has evidence of the violation. Regardless of whether a citation is issued, the product shall be seized as contraband by the law enforcement officer.

(c) A violation of this section is a civil offense, for which the general sessions or juvenile court may, in its discretion, impose a civil penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), which may be charged against a person who is at least eighteen (18) years of age but less than twenty-one (21) years of age, or, in the case of a minor, against a parent, guardian, or custodian. The general sessions or juvenile court may, in its discretion, also impose community service work not to exceed fifty (50) hours or successful completion of a prescribed court program for a second or subsequent violation within a one-year period.

(d) A person who has not attained twenty-one (21) years of age and who is cooperating with law enforcement officers in an operation designed to test the compliance of other persons with this part is not subject to sanctions under this section.

(e) As used in this section, "law enforcement officer" means an officer, employee, or agent of government who is authorized by law to investigate the commission or suspected commission of violations of the laws of this state.

(f) Notwithstanding this section, it is lawful for a person under twenty-one (21) years of age to handle or transport:

(1) Products containing a hemp-derived cannabinoid as a part of and in the course of the person's employment; provided, that the person is under the supervision of another employee who is at least twenty-one (21) years of age; or

(2) Products containing a hemp-derived cannabinoid as part of an educational project that has been developed by the person for entry and display at an agricultural fair or other agricultural competition or event.

**43-27-205.**

(a) A person who sells products containing a hemp-derived cannabinoid at retail shall post conspicuously and keep so posted at the place of business a sign, no smaller than ninety-three and one-half (93 ½) square inches, to ensure that it is likely to be read at each point of sale, stating the following:

STATE LAW STRICTLY PROHIBITS THE SALE OF PRODUCTS CONTAINING  
A HEMP-DERIVED CANNABINOID TO PERSONS UNDER THE AGE OF TWENTY-  
ONE (21) YEARS

PROOF OF AGE MAY BE REQUIRED

(b) Unless another notice is required by federal law, the notice required by this section is the only notice regarding products containing a hemp-derived cannabinoid required to be posted or maintained in a store that sells products containing a hemp-derived cannabinoid at retail.

**43-27-206.**

(a) It is unlawful for a person to sell products containing a hemp-derived cannabinoid through a vending machine unless the vending machine is located in any of the following locations:

(1) In areas of factories, businesses, offices, or other places that are not open to the public;

(2) In places that are open to the public but to which persons under twenty-one (21) years of age are denied access;

(3) In places where alcoholic beverages are sold for consumption on the premises, but only if the vending machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, and is inaccessible to the public when the establishment is closed; and

(4) In other places, but only if the machine is under the continuous supervision of the owner or lessee of the premises or an employee of the owner or lessee of the premises, or the machine can be operated only by the use of a token purchased from the owner or lessee of the premises or an employee of the owner or lessee of the premises prior to each purchase, and is inaccessible to the public when the establishment is closed.

(b) In a place where supervision of a vending machine, or operation by token is required by this section, the person responsible for that supervision or the sale of the token shall demand proof of age from a prospective purchaser if an ordinary person would conclude on the basis of appearance that the prospective purchaser may be under thirty (30) years of age.

**43-27-207.**

(a) As used in this section:

(1) "Counter" means the point of purchase at a retail establishment; and

(2) "Retail establishment" means a place of business open to the general public for the sale of goods or services.

(b) All products containing a hemp-derived cannabinoid must be maintained behind the counter of a retail establishment in an area inaccessible to a customer or in a locked display case that makes the products unavailable to a customer without the assistance of an employee.

(c)

(1) A violation of this section is punishable as provided in § 43-27-208.

(2) If products containing a hemp-derived cannabinoid are sold in violation of this section by an employee, then the owner or operator of the retail establishment where the employee sold the products is in violation of this section.

**43-27-208.**

(a) The department shall enforce this part in a manner that may reasonably be expected to reduce the extent to which products containing a hemp-derived cannabinoid are sold or distributed to persons under twenty-one (21) years of age, and shall conduct random, unannounced inspections at locations where such products are sold or distributed to ensure compliance with this part.

(b) A person who violates § 43-27-203 or §§ 43-27-205 - 43-27-207 shall receive only a warning letter for the person's first violation and shall not receive a civil penalty for the person's first violation. A person who violates § 43-27-203 or §§ 43-27-205 - 43-27-207 is subject to a civil penalty of not more than five hundred dollars (\$500) for the person's second violation, not more than one thousand dollars (\$1,000) for the person's third violation, and not more than one thousand five hundred dollars (\$1,500) for the person's fourth or subsequent violation. For purposes of determining whether a violation is the person's first, second, third, or fourth or subsequent violation, the commissioner shall count only those violations that occurred within the previous five (5) years. A civil penalty must be assessed in the following manner:

(1) The commissioner shall issue the assessment of a civil penalty against a person responsible for the violation;

(2) A person against whom an assessment has been issued may secure a review of the assessment by filing with the commissioner a written petition setting forth the person's reasons for objection to the assessment and asking for a hearing before the commissioner;

(3) A hearing before the commissioner shall be conducted in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3; an appeal from the final order of the commissioner may be taken by the person to whom the assessment was issued, and the appeal proceedings shall be conducted in accordance with the judicial review provisions of the Uniform Administrative Procedures Act, codified in §§ 4-5-322 and 4-5-323; and

(4) If a petition for review is not filed within thirty (30) days after the date the person received the assessment, then the person is deemed to have consented to the assessment, and the assessment is final. Whenever an assessment has become final, the commissioner may apply to the chancery court of Davidson County for a judgment in the amount of the assessment and seek execution on the judgment; the chancery court of Davidson County shall treat a person's failure to file a petition for review of an assessment as a confession of judgment in the amount of the assessment.

(c) A person who demanded, was shown, and reasonably relied upon proof of age is not liable for a civil penalty for a violation of § 43-27-203 or § 43-27-206. In the case of distribution of a product containing a hemp-derived cannabinoid by mail, a person who obtained a statement from the addressee that the addressee is at least twenty-one (21) years of age is not liable for a civil penalty so long as that distributor of the product containing a hemp-derived cannabinoid informed the addressee that § 43-27-203 prohibits the distribution of products containing a hemp-derived cannabinoid to a person under twenty-one (21) years of age.

(d) When assessing a civil penalty, the commissioner is authorized to assess the penalty against each person or persons determined by the commissioner to be responsible, in whole or in part, for contributing to or causing the violation to occur, including, but not limited to, the owner, manager, or employee of a store at which a product containing a hemp-derived cannabinoid is sold at retail, the owner, manager, or

employee of an establishment in which a vending machine selling products containing a hemp-derived cannabinoid is located, and a company or its employees engaged in the business of sampling.

(e)

(1) The owner or manager of a store that sells products containing a hemp-derived cannabinoid at retail shall provide training to the store's employees concerning the provisions of this part. As a part of this training, each employee shall, prior to selling products containing a hemp-derived cannabinoid at retail, sign a statement containing substantially the following words:

I understand that state law prohibits the sale of products containing a hemp-derived cannabinoid to persons under twenty-one (21) years of age and that state law requires me to obtain proof of age from a prospective purchaser of products containing a hemp-derived cannabinoid who, based on appearance, might be as old as twenty-nine (29) years of age. I promise to obey this law, and I understand that monetary or criminal penalties may be imposed on me if I violate this law.

(2) If the commissioner assesses a penalty against the store owner or manager, then the owner or manager may present to the commissioner a copy of the statement described in subdivision (e)(1) that was signed by the employee who made the sale to a minor, along with a sworn statement by the owner or manager that the employee had signed the statement prior to the sale to the minor, and the name and address of the employee who made the sale. If the owner or manager does not know which employee made the sale to the minor, then the owner or manager may present to the commissioner copies of the statements described in subdivision (e)(1) that were signed by all employees working at the store on the day the sale was made, along with a sworn statement that these employees had signed those statements prior to the sale to the minor.



(3) When the store owner or manager presents to the commissioner the statements described in subdivision (e)(2):

(A) The penalty against the store owner or manager must be eliminated if the violation is the second violation determined to have occurred at that store; or

(B) The commissioner shall consider that evidence and other evidence with respect to the amount of the penalty against the owner or manager if the violation is the third or subsequent violation determined to have occurred at that store.

(f) The department shall prepare for submission to the general assembly and the public an annual report describing in detail the department's enforcement efforts under this part.

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 4, Part 4, is amended by adding the following as a new section:

**67-4-403.**

(a) Each wholesaler or manufacturer making sales of products containing a hemp-derived cannabinoid shall pay to the department a wholesale tax levied at a rate of six and six-tenths percent (6.6%) of the wholesale sales price per product sold to retailers for the privilege of distributing such products in this state.

(b) All sales made by wholesalers at the wholesalers' places of business as well as a sale or transfer by a manufacturer operating as a retailer to a location owned or operated by such manufacturer-retailer are deemed to be taxable sales and the tax imposed by this section must be collected on all such sales.

(c) The tax levied under this section is due and payable monthly on the first day of each month, and for the purpose of ascertaining the amount of tax payable under this section, it shall be the duty of all wholesalers and manufacturers making taxable sales on or before the twentieth day of each month to transmit to the commissioner, upon

forms prescribed by the commissioner, returns, showing gross sales during the preceding month.

(d) All revenue received by the department from the tax imposed by this section must be deposited into a special account in the state general fund and allocated to the department of agriculture to be used exclusively for the regulation and promotion of the hemp industry in this state.

(e) As used in this section:

(1) "Hemp-derived cannabinoid":

(A) Means:

(i) A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, that is derived from hemp in a concentration of more than one-tenth of one percent (0.1%); or

(ii) A hemp-derived product containing delta-9 tetrahydrocannabinol in a concentration of three tenths of one percent (0.3%) or less;

(B) Includes, but is not limited to:

(i) Cannabinol (CBN/CBNa);

(ii) Delta-8 tetrahydrocannabinol;

(iii) Delta-10 tetrahydrocannabinol;

(iv) Hexahydrocannabinol;

(v) Tetrahydrocannabiphorol (THCp);

(vi) Tetrahydrocannabinol acetate ester (THCo);

(vii) Tetrahydrocannabivarin (THCv); and

(C) Does not include:

(i) Cannabichromene (CBC/CBCa/CBCv);

(ii) Cannabicitran (CBT/CBTa);

- (iii) Cannabicyclol (CBL/CBLa);
- (iv) Cannabidiol (CBD/CBDa/CBDv/CBDp);
- (v) Cannabielsoin (CBE/CBEa);
- (vi) Cannabigerol (CBG/CBGa/CBGv/CBGm);
- (vii) Cannabivarin (CBV/CBVa);
- (viii) Hemp-derived feed products allowed under § 44-6-

103; or

- (ix) Hemp-derived fiber, grain, or topical products;

(2) "Retailer" means a person who sells products containing a hemp-derived cannabinoid for consumption and not for resale;

(3) "Wholesale sale" means a sale, gift, or other transfer and delivery of a product containing a hemp-derived cannabinoid by a wholesaler or manufacturer to a retailer;

(4) "Wholesale sales price" means the actual sales price or fair market value of the hemp-derived cannabinoid product, whichever is greater. The fair market value is presumed to be the amount the wholesaler or manufacturer typically charges parties for the hemp-derived cannabinoid product in an arm's length transaction; and

(5) "Wholesaler" means a person or entity that sells products containing a hemp-derived cannabinoid to retailers, including a manufacturer that sells directly to retailers.

SECTION 3. Tennessee Code Annotated, Section 43-27-101, is amended by adding the following as a new subdivision:

( ) "Hemp-derived cannabinoid":

(A) Means:

(i) A cannabinoid other than delta-9 tetrahydrocannabinol, or an isomer derived from such cannabinoid, that is derived from hemp in a concentration of more than one-tenth of one percent (0.1%); or

(ii) A hemp-derived product containing delta-9 tetrahydrocannabinol in a concentration of three tenths of one percent (0.3%) or less;

(B) Includes, but is not limited to:

(i) Cannabinol (CBN/CBNa);

(ii) Delta-8 tetrahydrocannabinol;

(iii) Delta-10 tetrahydrocannabinol;

(iv) Hexahydrocannabinol;

(v) Tetrahydrocannabiphorol (THCp);

(vi) Tetrahydrocannabinol acetate ester (THCo); and

(vii) Tetrahydrocannabivarin (THCv); and

(C) Does not include:

(i) Cannabichromene (CBC/CBCa/CBCv);

(ii) Cannabicitran (CBT/CBTa);

(iii) Cannabicyclol (CBL/CBLa);

(iv) Cannabidiol (CBD/CBDa/CBDv/CBDp);

(v) Cannabielsoin (CBE/CBEa);

(vi) Cannabigerol (CBG/CBGa/CBGv/CBGm);

(vii) Cannabivarin (CBV/CBVa);

(viii) Hemp-derived feed products allowed under § 44-6-103; or

(ix) Hemp-derived fiber, grain, or topical products;

( ) "Retailer" means a person who sells products containing a hemp-derived cannabinoid for consumption and not for resale;

( ) "Wholesale sale" means a sale, gift, or other transfer and delivery of a product containing a hemp-derived cannabinoid by a wholesaler or manufacturer to a retailer;

( ) "Wholesale sales price" means the actual sales price or fair market value of the hemp-derived cannabinoid product, whichever is greater. The fair market value is presumed to be the amount the wholesaler or manufacturer typically charges parties for the hemp-derived cannabinoid product in an arm's length transaction;

( ) "Wholesaler" means a person or entity that sells products containing a hemp-derived cannabinoid to retailers, including a manufacturer that sells directly to retailers;

SECTION 4. Tennessee Code Annotated, Title 43, Chapter 27, is amended by adding the following as a new part:

**43-27-301.**

(a) A person or entity that is in the business of selling or distributing products containing a hemp-derived cannabinoid in this state, including as a wholesaler or retailer, must obtain a license from the department authorizing the person or entity to engage in that business prior to the commencement of business or by July 1, 2023, whichever is later.

(b) In order to obtain and maintain a sales or distribution license under subsection (a), a person must:

(1) Submit to the department other information prescribed by rules as necessary for the efficient enforcement of this chapter;

(2) Consent to reasonable inspection and sampling by the department of the person's inventory of products containing a hemp-derived cannabinoid; and

(3) Not be convicted of a state or federal felony drug offense within the previous ten (10) years.

(c) A license issued pursuant to this section is valid for a period of one (1) year and may be renewed annually.

**43-27-302.**

(a) It is an offense for a person or entity to engage in the business of selling or distributing products containing a hemp-derived cannabinoid in this state without a valid license required by this part.

(b) A violation of subsection (a) is a Class B misdemeanor.

SECTION 5. Tennessee Code Annotated, Section 43-27-104, is amended by deleting subdivisions (a)(4) and (5) and substituting the following:

(4) Determine requirements for and issue licenses for the production of hemp in this state and for the sale or distribution of products containing a hemp-derived cannabinoid in this state;

(5) Deny or revoke licenses and issue civil penalties up to one thousand dollars (\$1,000) for each violation of this part, or rules promulgated pursuant to this part;

SECTION 6. Tennessee Code Annotated, Section 43-27-102(b), is amended by deleting subdivision (2) and substituting:

(2) Submit to the department other information prescribed by rules as necessary for the efficient enforcement of this part;

SECTION 7. Tennessee Code Annotated, Section 43-27-107, is amended by deleting the section and substituting:

When the commissioner has reason to believe that a person is causing or has caused a violation of this part or the rules promulgated under this chapter, the commissioner may initiate proceedings in either the chancery court of Davidson County or the chancery court of the county where the violation occurred, for injunctive relief to prevent the continuance of the violation or to correct the conditions resulting in the violation.

SECTION 8. For purposes of promulgating rules or forms, this act takes effect upon becoming a law, the public welfare requiring it. Section 1 of this act takes effect July 1, 2022,

the public welfare requiring it, and applies to offenses committed on or after that date. Sections 2 through 7 of this act take effect July 1, 2023, the public welfare requiring it.